

FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIAFILED
SCRANTON

OCT 29 2018

PER 81 DEPUTY CLERK

3.18 - CV-2101

(Case Number)

(1) Benson C. Reino 02540-049
 (Name of Plaintiff) (Inmate Number)
USP Lewisburg
P.O. Box 1000, Lewisburg, PA 17837
 (Address)

(2) Not Applicable
 (Name of Plaintiff) (Inmate Number)
Not Applicable
 (Address)

(Each named party must be numbered,
 and all names must be printed or typed)

vs.

CIVIL COMPLAINT

(1) Mark Koch, Director
 (2) David J. Ebbert, Warden
 (3) First Name: Mark (FKA) J. Rhodes, Captain
 (Names of Defendants)

*CONTINUED ON ATTACHMENT PAGE 1A

(Each named party must be numbered,
 and all names must be printed or typed)

TO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS(a) 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. PREVIOUS LAWSUITS

CONTINUED ON ATTACHMENT PAGE 1A

A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

(1) Reid v. State of New Hampshire, et al., 1:89-cv-152-sm (D.NH 1989)
Sheron McCallife, U.S. Dist. Judge; (2) Reid v. Stratford City. Dept. of
Corr., No. 1:06-cv-182-sm (D.NH); Sheron McCallife, U.S. Dist. Judge;
(3) Reid v. United States, No. 5:12-cv-1416-M (W.D. OK)

CONTINUED ON ATTACHMENT PAGE 1A

Attachment (cont. from page 1)

Defenses Under

- (2) Brown v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971);
- (3) 5 U.S.C. § 702, the Administrative Procedure Act;
- (4) 28 U.S.C. § 1331, an Action to Compel an Officer of the United States to Perform His Duties Act;
- (5) 28 U.S.C. § 1651, the All Writs Act; and
- (6) 28 U.S.C. § 2201, the Declaratory Relief Act; and
- (7) 28 U.S.C. § 2202, the Further Relief Act;
- (8) 28 U.S.C. §§ 1331(b), 2671, Federal Tort Claims Act.

I. Previous Proceedings

- (14) Reid v. Federal Bureau of Prisons, 1:13-cv-2149-JTT-JDK (W.D. La. 2013) (USDT name unavailable); (15) Reid v. United States, 1:14-cv-1163-ATD-PMS (E.D. Cal. 2014) (Hon. Lawrence F. O'Neill, USDT); (16) Reid v. Sonneck, 1:15-cv-375-RNC (D. DC. 2015) (Hon. Rosemary M. Collyer, USDC); Reid v. J.T. Shartle, 1:15-cv-00083-TJC-BPV (Magistrate Judge Bernadette P. Velasco) (D. Ariz. 2015); (17) Reid v. ANU Lockett, Warden, et al., 5:17-cv-324-D-10PBL (M.D. FL 2017) (Hon. Wm. Terrill Hodges, U.S.D. S. J.); (18) Reid v. Bear, 1:92-cv-3-SC (D. NH 1992) (USDT name unavailable).⁷

⁷ Plaintiff has no personal recollection of having filed this case (Bear) and has no means of discovering whether he did. His only knowledge of this case is from Reid v. Lockett, supra, wherein he now accused of acting in bad faith because, in part, he did not list this case on his form complaint.

Attachment

III. Defendants (cont. from page 2)

(4) Name of fourth defendant: Lieutenant (2844) Scampore

Employed as: Lieutenant at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(5) Name of fifth defendant: John Doe #1

Employed as: Lieutenant at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(6) Name of Sixth defendant: John Doe #2

Employed as: Lieutenant at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(7) Name of seventh defendant: John Doe #3

Employed as: Lieutenant at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(8) Name of eighth defendant: John Doe #4

Employed as: Lieutenant at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(9) Name of ninth defendant: John Doe #5

Employed as: prison guard at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(10) Name of tenth defendant: Jessie Byers

Employed as: Physician's Asst. at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(11) Name of eleventh defendant: Jane Doe

Employed as: Nurse at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

- A. Is there a prisoner grievance procedure available at your present institution? Yes No
- B. Have you fully exhausted your available administrative remedies regarding each of your present claims? Yes No
- C. If your answer to "B" is Yes:
 1. What steps did you take? I have previously (i.e. prior to the instant incident) grievanced the torturous use of restraints which were all denied
 2. What was the result? All prior administrative remedies concerning the illegal and torturous use of restraints was denied or defendant did not respond within the time required by law
- D. If your answer to "B" is No, explain why not:

III. DEFENDANTS

(1) Name of first defendant: Mark S. Tack, Director, Federal Bureau of Prisons

Employed as Director at Federal Bureau of Prisons
 Mailing address: 320 First Street, NW, Washington, D.C. 20534

(2) Name of second defendant: David J. Ebbert

Employed as Warden at United States Penitentiary ("USP") Lewisburg
 Mailing address: Post Office Box 1000, Lewisburg, Pennsylvania 17837

(3) Name of third defendant: J. Rhodes

Employed as Captain of the Guards at 118P Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, Pennsylvania 17837 (cont. on Page 2A-2B)
 (List any additional defendants, their employment, and addresses on extra sheets if necessary)

IV. STATEMENT OF CLAIM

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets if necessary.)

1. That Defendants, individually and singularly, or by combination, consort and agreement have used, and threaten the continued use of corporal punishment and torture by intentionally applying full hard restraints in a manner and

(12) Name of Twelfth defendant: John Doe #6

Employed as: Nurse at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(13) Name of Thirteenth defendant: A. Gilligan

Employed as: prison guard at USP Lewisburg

Mailing address: Post Office Box 1000, Lewisburg, PA 17837

(14) United States of America

2. For a period of time calculated to cause pain, anguish and/or injury, and otherwise in contravention to the Code of Federal Regulations, Federal statute, common law and the Constitution of the United States; that as a result of said conduct Plaintiff did suffer pain and anguish, injury, permanent scarring and nerve damage to his lower body.

SUPPORTING FACTS:

(a) Plaintiff, at all times specified herein unless otherwise specified, is a federal prisoner currently incarcerated at USP Lewisburg, a facility that is a component part of the Federal Bureau of Prisons ("BOP").

(b) Under the Code of Federal Regulations and BOP Policy Statements, prison officials are prohibited from chaining prisoners in full (cont on ATTACHMENT PAGES 3A-3D.)

V. RELIEF

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. Plaintiff Requests: (a) a Temporary Restraining Order, (b) Preliminary injunction, and (c) Permanent Injunction prohibiting Defendants, and each of them, from unlawfully applying full hard restraints in contravention to the Code of Federal Regulations; and, in such case application is deemed appropriately applied, video documentation of the application and each two-hour examination and medical evaluation with Court review within 24 hours; and that Defendants be directed to provide full and immediate medical treatment for any pain, injury that may be caused by such application.

2. Compensatory damages in the amount of \$2,000,000.00; Exemplary damages in the amount of \$4,000,000.00, and interest, costs and fees, to include attorney costs and fees.

ATTACHMENT

IV. Statement of Claim (cont. from page 3)

(Supporting facts)

hard restraints unless the prisoner is suicidal, violent or destroying government property, and soft restraints are inadequate.

(c) The Code of Federal Regulations and published BOP policy prohibit the use of full restraints for punitive purposes.

(d) The Code of Federal Regulation and published BOP policy specify and require that whenever a prisoner is placed in full restraints that he or she be evaluated every two hours, and for the prisoner to be released therefrom in the event s/he has ceased to engage in the above-enumerated conduct.

(e) On numerous occasions between 2010 and 2018 at BOP facilities other than USP Lewisburg located in Indiana, Louisiana, California, Arizona, and Florida Plaintiff has observed BOP prison officials utilize full hard restraints against prisoners as a means of inflicting corporal punishment, and also for reasons other than those specified above in subparagraph (b), supra.

(f) On a number of occasions at the above-specified facilities (sub-paragraph (e)) between 2010 and 2018, prison officials have resorted to the punitive misapplication of full hard restraints for reasons not permitted by the Code of Federal Regulations against Plaintiff's person.

(g) On each occasion Plaintiff was wrongfully placed in full restraints prison officials would intentionally falsify the reason for Plaintiff's placement in full restraints, and would thereafter continue

to write false two-hour evaluations in order to extend his placement in restraints for anywhere between approximately 24 hours to 72 hours.

(b) On each occasion Plaintiff was wrongfully placed in full hard restraints as above referenced (subparagraphs (c) through (g), *supra*) prison officials did purposely and intentionally use small sized handcuffs which they knew to be too small, for the purpose of inflicting pain and injury.

(i) On each occasion Plaintiff was wrongfully placed in full hard restraints as above referenced (subparagraphs (c) through (g), *supra*) prison official did purposely and intentionally:

(1) affix the restraints excessively tight;

(2) locked Plaintiff in an unsanitary cell typically with feces and urine on the doors, walls, and/or ceiling, among other places.

(j) As a result of the above described conduct, Plaintiff has been injured and suffered pain and anguish, humiliation and dehumanization.

(k) On several occasions between, approximately, 2012 and 2017, Plaintiff has filed Administrative remedy grievancing the above referenced unlawful misapplication of full hard restraints, to no avail.

United States Penitentiary Lewisburg

(l) On March 20, 2018, prison guard A. Gilligan did intentionally and purposely falsely claim in a Incident Report that Plaintiff verbally threatened him when he had not done anything of the sort.

(m) A. Gilligan made the false assertion because he desired, and/or knew that his superiors desired, to place Plaintiff in full hard restraints for reasons not permitted under the Code of Federal Regulations and published BOP policy to include the infliction of corporal punishment.

(a) On at least one occasion prior to March 20, 2018, Plaintiff observed prison officials falsely accuse another prisoner of threatening staff in order to fabricate a basis for activating the Use of Force Team ("UOF team") and placing him in full, hard restraints, at USP Lewisburg

(b) It is in fact the practice of prison officials to make spurious allegations involving threats against staff to justify their unlawful placement of prisoners in full, hard restraints, which Plaintiff has repeatedly observed during his term of confinement in the BOP and has happened to him.

(c) On March 20, 2018, prison officials, to include Lieutenant Scampone, did affix full hard restraints to Plaintiff's person that was too small and tight, for the purpose of inflicting pain and injury.

(d) That Lieutenant Scampone and other John Doe Defendants did intentionally and purposefully affix the full hard restraints on Plaintiff's person in a manner calculated to cause pain and anguish, and as direct and proximate result the handcuffs cut into Plaintiff's wrist and became embedded in the wounds; Plaintiff's wrist and hands also became swollen and the waist chain bit into his waist.

(e) That Lieutenant Scampone and other John Doe Defendants repeatedly falsified their two hour evaluations in order to fabricate a basis upon which to extend Plaintiff's placement in full, hard restraints until the next day.

(f) On several occasions the John Doe Lieutenants, with the design and purpose of causing further pain and anguish, did brutally jerk the the handcuffs (which had become embedded in the wounds) down Plaintiff's swollen wrists, aggravated the wounds by tearing more skin away from flesh and causing so much pain Plaintiff literally saw nothing but red.

(t) Defendant Lieutenant Scampone did cause Plaintiff to be stripped naked in full view of staff of the opposite sex, and to be placed in an unsanitary cell infested with ants and other insects all with the purpose of dehumanizing and humiliating Plaintiff.

(u) In the early morning hours of the next day between 3:00 and 4:00 a.m., while still brutally chained in full hard restraints in the above-referenced unsanitary cell, John Doe #5 sprayed pepper spray (perhaps *capsicum capiscum*) into the cell causing Plaintiff difficulty in breathing, his nose to run and eyes to burn for approximately 15 to 20 minutes.

(v) Throughout the above described tribulation Plaintiff was, on several separate occasions individually examined by Physician Assistant Jessie Ayers, Nurse John Doe, and Nurse Jane Doe, all of whom observed the brutal manner in which the restraints had been applied and the anguish and agony caused thereby, but refused to recommend a cessation of the mistreatment of Plaintiff's person, or lend treatment for injuries.

(w) At least Nurses John Doe and Jane Doe, and Physician's Assistant Jessie Ayers, observed the wounds caused by the above-referenced unlawful and brutal application of restraints, but they too refused to treat said injuries as a result of which the bandages became embedded in the wounds which also became infected.

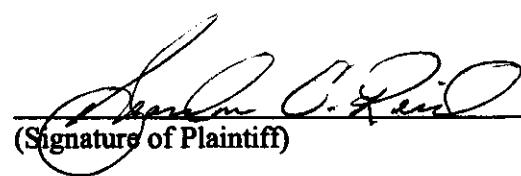
(x) As a result of Defendant's conduct Plaintiff suffered pain and agony without cessation for 24 hours, injuries to both wrists, and permanent scarring.

(y) As a direct and proximate result of Defendants' conduct Plaintiff has suffered nerve damage that continues to cause him pain and has crippled him.

3. Such other and further relief as is just, equitable and fair.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26th day of October, 2018.


(Signature of Plaintiff)

Borden C. Reid Reg. No. 02540-049
USP Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

October 29, 2018

Clerk's Office
U.S. District Court
W.D. Pennsylvania
235 North Washington Avenue
P.O.B. 1148
Scranton, PA 18501-1148

Re: Filing Prisoner Complaint w/~~or~~ application

Dear Madam or Sir:

Please find enclosed herewith for filing on behalf
of this Plaintiff the following documents:

1. Civil Complaint (w/copy to be returned "Stamp Filed");
2. And "USM-285," "RD 398," and "RD 399" forms for
each of the following:
 - (a) Mark Koch,
 - (b) David J. Ebert,
 - (c) J. Rhodes
 - (d) Lieutenant Scampone

(e) R. Gillogan, S.C.

(f) Jessie Ayers,

(g) Attorney General

(h) U.S. Attorney for the N.D. of Pennsylvania.

3. Also find enclosed the AO 240 form "Applications

to Proceed in District Court Without Prepaying

Fees and Costs (Short Form)," together with a

"Inmate Statement" (i.e. prisoner trust fund statement).

4. I will very much appreciate you filing these documents
with the court and returning the extra copy to me stamped
"Filed."

Very truly yours,
Gordon C. Reid
Gordon C. Reid

Inmate Name: Donald Reid
Register Number: 02590-040
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837 10/29/18

RECEIVED
SCRANTON
OCT 29 2018

PER DEPUTY CLERK

Clerk
enited
FOR THE
235
P.O.
Scranton

* Special Mail/*